IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE NINETH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE D.S.R.VARMA

WRIT PETITION NO: 24031 of 1995

Between:

J.Vijaykumar S/o Venkataiah, R/o H.No.11-24-6,

Deshaipet Road, Warangal

..... PETITIONER

AND

1.Municipal Corporation of Warangal, through its

Commissioner-in-Office, S.V.N.Road, Warangal.
2.Kakatiya Urban Development Authority, rep.,
by its Vice Chairman, S.V.N. Road, Warangal.
3.Superintending Engineer, PWD (R&B) Dept.,

Subedari, Hanamkonda, Warangal.
4.Government of Andhra Pradesh through the
District Collector, Warangal.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction, particularly a writ in the nature of Mandamus, declaring the action of the respondents and their officers in putting the Red Arrow mark to the petitioner's building and the consequent contemplated action of the respondents to demolish his building as being illegal, arbitrary and violative of Art.300-A of the constitution of India and consequently direct the respondents not to cause any damages to the petitioner's building in any manner and further direct the respondents to pay a compensation of Rs.5,000/- to the petitioner to wards mental agony suffered by him and by his family and loss of money for litigation.

Counsel for Petitioner: MR.BANKATLAL MANDHANI.

Counsel for Respondent No.: MR.K.VENUGOPAL REDDY (SC).

Counsel for Respondent No.2: MR.C.NARENDER (SC).

Counsel for Respondent Nos.3 & 4: GOVERNMENT PLEADER FOR

MUNICIPAL ADMINISTRATION.

The Court made the following:

ORAL ORDER:

Heard both sides.

2. The grievance of the petitioner is that the respondents are resorting to demolish a part of the construction raised by him.

3. It is the averment of the petitioner in the affidavit, filed in support of the writ petition, that the construction was raised in accordance with the plan approved by the authorities concerned, leaving sufficient space for future road widening, despite which the respondents are now trying to proceed with the demolition of a part of his construction. The specific averment made by the petitioner is that no notice was issued to him before resorting to such demolition.

4. In the Additional counter-affidavit filed by the second respondent, it is stated that a portion of the construction raised by the petitioner is still required for the purpose of road widening.

5. In such a case, the authorities are, in fact, at liberty to acquire such a particular portion of the construction raised by the petitioner for the purpose of road widening or any other public purpose.

6. However, the cardinal principles that are to be followed

before proceeding with such action are that a notice must be issued to the petitioner indicating the purpose, the extent of portion required and any other details regarding the need for demolition and after serving such a notice and only after receiving explanation from the petitioner, the respondents can proceed with any demolition that too only after following the due process of law.

7. In view of the above, suffice it to dispose of the writ petition with the following directions:

"The respondents shall, before resorting to any action of demolition of a portion of the construction raised by the petitioner, issue a notice to the petitioner with reasons within a period of six weeks from the date of receipt of a copy of this order and the petitioner is directed to offer his explanation within a period of six weeks thereafter and upon receipt of such explanation, the respondents are at liberty to take appropriate decision thereon after following the procedure prescribed under law."

8. With the above directions, the writ petition is disposed of. However, there shall be no order as to costs.

D.S.R.VARMA, J

09TH SEPTEMBER 2004

KRK

To:

1.The Superintending Engineer, PWD (R&B) Department, Subedari, Hanamkonda, Warangal.

2.Government of Andhra Pradesh, represented by the District Collector, Warangal.

3.Two C.Cs to the Government Pleader for Municipal Administration, High Court Buildings, Andhra Pradesh, Hyderabad (OUT).

4.Two C.D. Copies.